

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
DAYTON DIVISION**

<b>JOHN AND JANE DOE NO. 1, et al</b>	:	<b>CASE NO: 3:22-cv-00337</b>
	:	
<b>PLAINTIFFS</b>	:	<b>JUDGE MICHAEL J. NEWMAN</b>
	:	
<b>vs.</b>	:	
	:	
<b>BETHEL LOCAL SCHOOL DISTRICT BOARD OF EDUCATION, et al</b>	:	
	:	
<b>DEFENDANTS.</b>	:	

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**DEFENDANTS BETHEL LOCAL SCHOOL DISTRICT BOARD OF EDUCATION,  
AND LYDDA MANSFIELD, LORI SEBASTIAN, NATALIE DONAHUE, DANNY  
ELAM, JACOB KING AND MATTHEW CHRISPIN, IN THEIR OFFICIAL  
CAPACITIES, NOTICE OF AMENDMENT TO LEGAL CITATION  
IN DOC. 60, PAGEID# 1327**

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Plaintiffs call to the undersigned's attention that Defendants' citation to Ohio Sup. Ct. Bd. Comm'r Grievances & Discipline, Op. 2005-03 (Feb. 4, 2005) at Doc. 60, PageID# 1327 does not include reference to "Withdrawn by adv. Op. 2016-5." The citation should correctly read Ohio Sup. Ct. Bd. Comm'r Grievances & Discipline, Op. 2005-03 (Feb. 4, 2005) (withdrawn by adv. Op. 2016-5). Defendants' ethics expert, Alvin Mathews, Esq., cites the more current opinion, Ohio Bd. Op. 2016-5 (Aug. 15, 2016) in his declaration at paragraph 8, and Defendants cite it when moving for relief regarding the Franz Declaration. Doc. 48-3, PageID# 1096-97; Doc. 48, PageID# 1049, respectively. The more current 2016 opinion reaches the same conclusion as the 2005 opinion:

Before interviewing a former employee, a lawyer should disclose his or her identity, and fully explain that he or she represents a client adverse to the corporation. The lawyer also must immediately inform the former employee not to divulge any privileged communications that the former employee may have had with corporate

or other retained counsel. Prof.Cond.R. 1.6, 4.4 (lawyers may not use methods to obtain evidence that violate the legal rights of third parties.) Consequently, a lawyer must endeavor not to solicit information from former employees that the lawyer knows or reasonably knows to be protected by the attorney-client privilege. See D.C. Bar Op. 287. Nor may a lawyer communicate ex parte with a former employee who is represented by independent counsel, or if the corporation's lawyer has agreed to provide representation in the matter. See *Davis v. Creditors Interchange Receivable Mgmt., LLC*, 585 F. Supp. 2d 968 (N.D. Ohio 2008).

Respectfully submitted,

s/ Lynnette Dinkler

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### **CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of March, 2023, I served the foregoing, via the Court's CM/ECF E-filing System which will send notification to the following:

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